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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,342	08/05/2003	Thomas E. Drake JR.	1017.P051USC1	6153
7590	05/10/2005		EXAMINER	
Koestner Bertani LLP Suite A-100 4201 Parmer Lane Austin, TX 75727			LEE, HWA S	
			ART UNIT	PAPER NUMBER
			2877	
			DATE MAILED: 05/10/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,342	DRAKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew Hwa S. Lee	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 February 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 and dependent claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is unclear what should follow after the word “with” of the third clause cited as, “....wherein the first pulsed laser beam and second pulsed laser beam are directed to the surface of the remote target *with*,” For examination purposes, it will be assumed the word “with” is not meant to be there and other minor informalities are shown in the discussion of claim 1 below:

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Nikoonahad et al (US 6,108,087).

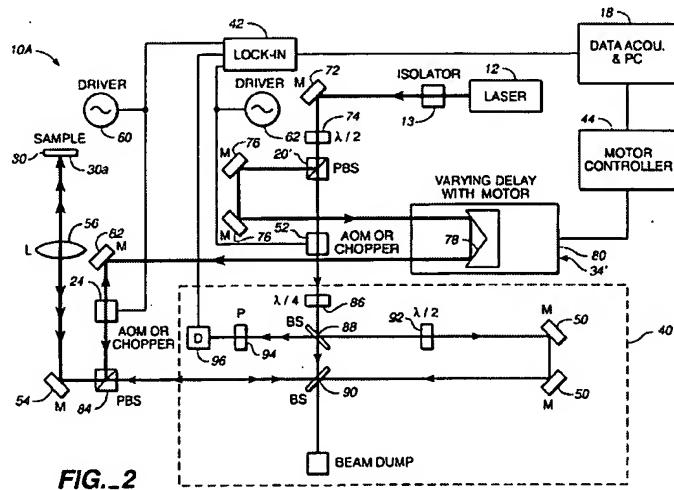
Nikoonahad et al. (Nikoonahad hereinafter) show a non-contact system for measuring film thickness comprising (e.g. Figure 2, column 4, lines 8-60):

directing a first pulsed laser beam to illuminate a portion of a surface of the remote target with an optical assembly ;

generating ultrasonic surface

displacements within the illuminated portion of the surface of the remote target with the first pulsed laser beam;

directing a second pulsed laser



**FIG. 2**

beam substantially to the illuminated portion of the surface of the remote target, wherein the first pulsed laser beam and second pulsed laser beam are directed to the surface of the remote target with ;

detecting, using the second pulsed laser beam coaxial with the first pulsed laser beam, the ultrasonic surface displacements substantially within the illuminated portion of the surface of the remote target;

collecting phase modulated light from the second pulse laser beam either reflected or scattered by the remote target; and

processing the phase modulated light to obtain data representative of the ultrasonic surface displacements on the surface of the remote target.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikoonahad as applied to claim 1 above and further in view of Schultz et al (US 5,402,223).

Nikoonahad does not show the converting of the analog signals to digital signals. Schultz et al show a furnace control system using an interferometer comprising of converting the detection signals from analog to digital signals. At the time of the invention, one of ordinary skill in the art would have converted the analog signals to digital signals in order to electronically analyze the signals by a computer.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikoonahad as applied to claim 1 above, and further in view of Maris (6,008,906).

Nikoonahad shows all the claimed elements but does not show a scanning optical assembly. Maris teaches that a scanning assembly (head) can be used for scanning large objects (column 9, lines 57+). At the time of the invention, one of ordinary skill in the art would have been motivated to use a scanning optical assembly in order to be able to scan large objects.

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3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikoonahad and Maris '906 as applied to claim 4 above, further in view of Siu et al (6,181,431).

Nikoonahad does not expressly show the intensity controller. Siu et al show ultrasonic evaluation system comprising a controlled pulsed laser. At the time of the invention, one of ordinary skill in the art would have used a controller for the laser in order to control the magnitude and pulse of the laser.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikoonahad and Maris '906 as applied to claim 4 above, further in view of Maris (5,706,094).

Nikoonahad does not expressly show the wavelength of the laser beam. Maris shows an ultrafast optical technique for the characterization of altered materials comprising of a pulsed laser source having a wavelength of about 10 microns. At the time of the invention, one of ordinary skill in the art would have used a pulsed laser having a wavelength of about 10 microns since Nikoonahad is silent about the wavelength and Maris suggests that the wavelength should be about 10 microns.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikoonahad and Maris as applied to claim 4 above, and further in view of Monchalin et al (US 5,080,491).

Nikoonahad and Maris show all the elements but does not show the stabilization using the light from the target. Monchalin et al (Monchalin hereinafter) show for example in Figure 6, the stabilization using the light from the target. At the time of the invention, one of ordinary skill

in the art would have modified Nikoonahad and Maris to use the stabilization method of Monchalin in order to allow ultrasound detection that is immune from intensity fluctuations of the laser and perturbations on the object surface (Abstract).

6. Claims 9, 11-13, 15, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monchalin in view of Maris (6,008,906).

Monchalin shows a laser optical ultrasound detection using two interferometers comprising:

a detection laser to generate a pulsed laser beam to detect the ultrasonic surface displacements on the surface of the remote target; collection optics for collecting phase modulated light from the pulsed laser beam either reflected or scattered by the remote target; an interferometer to process the phase modulated light collected by the collection optics, wherein the interferometer is stabilized with the collected phase modulated light either reflected or scattered by the remote target (figure 6);

said interferometer comprising:

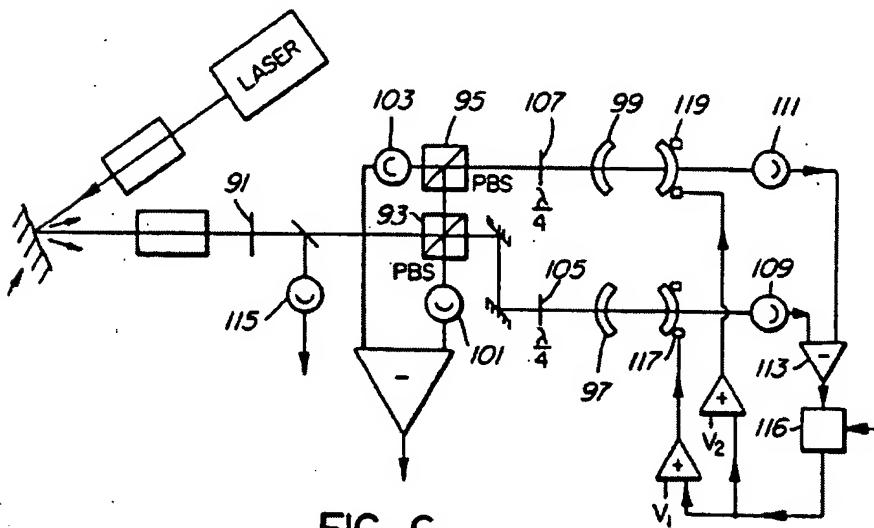
a first cavity (97) having a first confocal lens structure; a second cavity (99) having a second confocal lens structure; a device (91, 93) for dividing incoming depolarized light into a first polarized light component and a second polarized light component wherein said device also directs said first and second polarized light components into the first and second cavities;

a control system (117, 119) to adjust said first and second cavities such that a ratio of light transmitted through each cavity to light reflected back through each cavity remains substantially constant.

Monchalin does not expressly show the processor but shows the light transmitted through the first cavity, the light reflected back through the first cavity, the light transmitted through the second cavity, and the light reflected back through the second cavity, all in order to obtain data representative of the ultrasonic surface displacements on the surface of the remote target.

Processors are well known and at the time of the invention, one of ordinary skill in the art would have used a processor to analyze the signals.

Monchalin shows all the claimed elements but does not show a scanning optical assembly. Maris '906 teaches that a scanning assembly (head) can be used for scanning large objects (column 9, lines 57+). At the time of the invention, one of ordinary skill in the art would have been motivated to use a scanning optical assembly in order to be able to scan large objects.



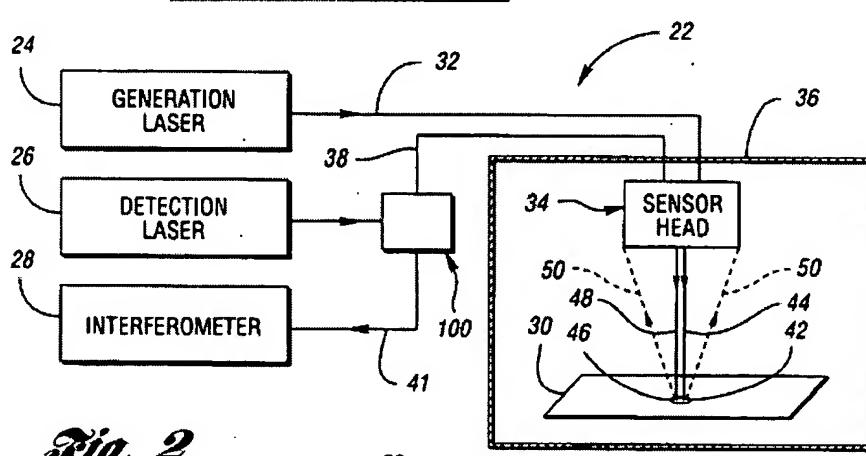
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With regards to the moving of the laser or the sample of claims 11, 12, and 17, it is well known to move either the sample or the target in order to scan the sample completely rather than just a single spot, and one of ordinary skill would have done so in order to evaluate the whole sample.

7. Claim 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monchalin and Maris '906 as applied to claim 9 and 15 above, further in view of Siu et al.

Monchalin does not expressly show the intensity controller. Siu et al show ultrasonic evaluation system comprising a controlled pulsed laser. At the time of the invention, one of ordinary skill in the art would have used a controller for the laser in order to control the magnitude and pulse of the laser.

8. Claims 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al (US 6,128,081) in view of Monchalin and Maris '906.



White et al show a method and system for measuring a physical parameter wherein the generation laser and the detection laser coaxially apply laser beams to the surface of the remote

target. White et al does not show the interferometer comprising: a first cavity (97) having a first confocal lens structure; a second cavity (99) having a second confocal lens structure; a device (91, 93) for dividing incoming de-polarized light into a first polarized light component and a second polarized light component wherein said device also directs said first and second polarized light components into the first and second cavities.

Monchalin shows an interferometer (for example in Figure 6) used for measuring the surface characteristics comprising: an interferometer to process the phase modulated light collected by the collection optics; said interferometer comprising: a first cavity (97) having a first confocal lens structure; a second cavity (99) having a second confocal lens structure; a device (91, 93) for dividing incoming de-polarized light into a first polarized light component and a second polarized light component wherein said device also directs said first and second polarized light components into the first and second cavities; a control system (117, 119) to adjust said first and second cavities such that a ratio of light transmitted through each cavity to light reflected back through each cavity remains substantially constant.

Monchalin does not expressly show the process but shows the light transmitted through the first cavity, the light reflected back through the first cavity, the light transmitted through the second cavity, and the light reflected back through the second cavity, all in order to obtain data representative of the ultrasonic surface displacements on the surface of the remote target. Processors are well known and at the time of the invention, one of ordinary skill in the art would have used a processor to analyze the signals.

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At the time of the invention, one of ordinary skill in the art would have modified White et al to use the interferometer of Monchalin in order to allow ultrasound detection that is immune from intensity fluctuations of the laser and perturbations on the object surface (Abstract).

Maris teaches that a scanning assembly (head) can be used for scanning large objects (column 9, lines 57+). At the time of the invention, one of ordinary skill in the art would have been motivated to use a scanning optical assembly in order to be able to scan large objects.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection. However, in response to Applicant's argument that the interferometer of Monchalin is not stabilized with the collected phase modulated light either reflected or scattered by the remote target, please see Figure 6 and the description thereof of Monchalin.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

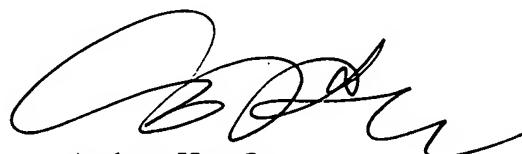
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Hwa S. Lee whose telephone number is 571-272-2419. The examiner can normally be reached on Tue-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley Jr. can be reached on 571-272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew Hwa Lee  
Primary Examiner  
Art Unit 2877